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Docket No.: M4065.0165/P165  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Garry A. Mercaldi, et al.

Application No.: 09/285,773

Group Art Unit: 1765

Filed: April 5, 1999

Examiner: L. Umez-Eronini

For: METHOD FOR ETCHING DOPED  
POLYSILICON WITH HIGH  
SELECTIVITY TO UNDOPED  
POLYSILICON

RESPONSE TO NOTICE OF NON-RESPONSIVE AMENDMENT AND TO  
ELECTION/RESTRICTION REQUIREMENT

Commissioner for Patents  
Washington, DC 20231

Dear Sir:

In response to the Notice of Non-Responsive Amendment mailed October 17, 2002 (Paper No. 28) and of the election/restriction requirement set forth in the Office Action mailed July 16, 2002 (Paper No. 26), Applicants provisionally elect species D<sub>1</sub> (claims 1-6, 9, 13-15, 22-27, 33-35, 39-41 and 83) (isopropanol required) of Group D for continued examination.

The election is made with traverse.

First, the present application was given a restriction requirement more than three years ago, in an Office Action mailed May 1, 2000, which required election between claims 1-41, drawn to a product, and claim 42-81, drawn to a method. In a response to the first restriction requirement dated May 25, 2000, Applicants provisionally elected claims 1-41, for continued examination without traverse. All elected claims 1-41 were then examined

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on the merits and a substantive Office Action was mailed on June 7, 2000, rejecting all claims 1-41. Applicants responded to the June 7, 2000 Office Action and amended claim 1, canceled claims 8, 12 and 19-21, and added new claims 82-86 in an Amendment dated August 10, 2000. The Examiner then issued a second substantive Office Action pertaining to claims 1-7, 9-11, 13-18, 22-41 and 82-86 on October 31, 2000 and Applicants responded on January 23, 2001 and amended claims 1, 4, 25 and 82-86.

A Notice of Appeal was mailed on February 1, 2001 and Applicants filed a Continued Prosecution Application on February 23, 2001. A fourth substantive Office Action was mailed on March 7, 2001 rejecting claims 1-7, 9-11, 13-18, 22-41 and 82-86 and Applicants responded on May 23, 2001 and canceled claims 30-32, 36-38 and 84-86, amended claims 1, 22 and 82-83 and added new claims 87-93. A fifth substantive Office Action was then mailed on July 24, 2001 finally rejecting claims 1-7, 9-11, 13-18, 22-29, 33-35, 39-41, 82 and 83 and allowing claims 87-93. In response to the July 24, 2001 Office Action, Applicants canceled claims 10, 11, 16-18 and 87, and amended claims 1 and 9 in an Amendment dated October 18, 2001. Another Advisory Action was mailed on October 30, 2001 and Applicants responded by filing another Continued Prosecution Application (CPA) on November 26, 2001. A seventh substantive Office Action was issued on December 13, 2001 rejecting all pending claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88. Applicants responded in an Amendment dated March 11, 2002 and amended claims 1, 9 and 22 and canceled claim 88.

Now, after more than three years of substantive prosecution of elected claims 1-41, Applicants have been required unexpectedly and unfairly to further elect between Group A (claims 1, 9, 22 and 89-93), Group B (claims 1, 22, 82, 83 and 89-93), Group C (claims 1, 2, 6, 7, 9, 13-15, 22-27, 33-35, 83 and 89-93) and Group D (claims 1-6, 9, 13-15, 22-27, 33-35, 39-41, 83 and 89-93), claims that have been already substantially examined together repeatedly.

Second, MPEP § 803 provides that “[I]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on its

merits, even though it includes claims to independent or distinct inventions.” As acknowledged by virtue of Applicants receiving numerous Office Actions mailed over a period of now more than three years, claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88 all relate to a non-aqueous etching mixtures, thereby defining closely related subject matter. Further, the previously elected claims have already been substantively examined at least five times by the same Examiner. Accordingly, this demonstrates that the entire group of claims 1-7, 9, 13-15, 22-29, 33-35, 39-41, 82, 83 and 89-93 can be examined together without serious burden. Consequently, the restriction/election requirement should be withdrawn and all claims 1-7, 9, 13-15, 22-29, 33-35, 39-41, 82, 83 and 89-93 should be examined.

Dated: June 4, 2003

Respectfully submitted,

By 

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FEE TRANSMITTAL for FY 2003 <small>Effective 01/01/2003, Patent fees are subject to annual revision.</small>		Compleat if Known	
		Application Number	09/285,773-Conf. #4121
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Filing Date	April 5, 1999
TOTAL AMOUNT OF PAYMENT (\$)		First Named Inventor	Garry A. Mercaldi
		Examiner Name	L. Umez-Eronini
(\$)		Art Unit	1765
1,300.00		Attorney Docket No.	M4065.0165/P165
METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)	
<input type="checkbox"/> Check <input checked="" type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None		3. ADDITIONAL FEES	
<input type="checkbox"/> Deposit Account		Large Entity Small Entity	
Deposit Account Number 04-1073		Fee Code Fee (\$)	
Deposit Account Name Dickstein Shapiro Morin & Oshinsky LLP		Fee Code Fee (\$)	
The Director is hereby authorized to: (check all that apply)		Fee Description	
<input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments		Fee Paid	
<input type="checkbox"/> Charge any additional fee(s) during the pendency of this application			
<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.			
FEE CALCULATION			
1. BASIC FILING FEE			
Large Entity Small Entity			
Fee Code Fee (\$)			
Fee Code Fee (\$)			
Fee Description			
Fee Paid			
1001 750 2001 375 Utility filing fee			
1002 330 2002 165 Design filing fee			
1003 520 2003 260 Plant filing fee			
1004 750 2004 375 Reissue filing fee			
1005 160 2005 80 Provisional filing fee			
SUBTOTAL (1) (\$)		0.00	
2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE			
Total Claims ** =		Extra Claims Fee from below Fee Paid	
Independent Claims ** =			
Multiple Dependent			
Large Entity Small Entity			
Fee Code Fee (\$)			
Fee Code Fee (\$)			
Fee Description			
1202 18 2202 9 Claims in excess of 20			
1201 84 2201 42 Independent claims in excess of 3			
1203 280 2203 140 Multiple dependent claim, if not paid			
1204 84 2204 42 ** Reissue independent claims over original patent			
1205 18 2205 9 ** Reissue claims in excess of 20 and over original patent			
SUBTOTAL (2) (\$)		0.00	
**or number previously paid, if greater; For Reissues, see above			
SUBMITTED BY		Complete (if applicable)	
Name (Print/Type) Thomas J. D'Amico		Registration No. 28,371	
Signature		Telephone (202) 828-2232	
		Date June 3, 2003	

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